

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:05CR256
)	
Plaintiff,)	MEMORANDUM
vs.)	AND ORDER
)	
RICKY T. McCOLLUM,)	
)	
Defendant.)	

This matter is before the court on a report and recommendation issued by Magistrate Judge Piester (filing 41, part 1), recommending denial of Defendant's motion to dismiss (filing 26), and on Defendant's statement of appeal (filing 42) from Judge Piester's simultaneously entered order (filing 41, part 2) denying Defendant's alternative motion for production of grand jury records (filing 26).¹

I have conducted a de novo review of the report and recommendation. I find that inasmuch as the Magistrate Judge has fully, carefully, and correctly found the facts and applied the law, the report and recommendation should be adopted and Defendant's motion to dismiss should be denied.

With respect to Judge Piester's order, I find that it is not clearly erroneous or contrary to law. Thus, the appeal will be denied and the order will be sustained.

¹ Defendant's statement of appeal is erroneously styled as a statement of objection to a magistrate judge's report and recommendation. Compare NECrimR 57.2 and 57.3. Although Judge Piester's order was issued in conjunction with a report and recommendation regarding Defendant's motion to dismiss (also contained in filing 26), Defendant has objected only to Judge Piester's finding that Defendant had failed to demonstrate a particularized need for disclosure of the transcript and records of the grand jury proceedings. That is, no objection is made to Judge Piester's recommendation that Defendant's motion to dismiss be denied.

IT IS ORDERED that:

- 1) the Magistrate Judge's report and recommendation (filing 41, part 1) is adopted;
- 2) Defendant's motion to dismiss (filing 26) is denied in all respects;
- 3) Defendant's statement of appeal (filing 42) is denied; and
- 2) the Magistrate Judge's order (filing 41, part 2) is sustained and shall not be disturbed.

December 15, 2005.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge